IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

OP.No. 9019 of 2000(W)

PETITIONER:

T.RAJASREE, AGED 27,
D/O.RAVEENDRAN, CHAITHANYA,
TEMPLE ROAD, RESIDING AT POZHATHI
AMSOM DESOM, KANNUR.

BY ADV. SRI.V.RAJAGOPAL

RESPONDENTS:
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1. THE DISTRICT COLLECTOR,
KANNUR.

2. SPECIAL DEPUTY TAHSILDAR,
(ARREAR COLLECTION-II)
KANNUR.

3. THE VILLAGE OFFICER,
KANNUR II, KANNUR.

4. C.P.RAVEENDRAN,
CHAITANYA, TEMPLE ROAD,
POZHATHI AMSOM DESOM,
KANNUR.

R1 TO 3 BY GOVERNMENT PLEADER SRI.TEKCHAND

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 12/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO.15029/2000 IN O.P. NO.9019/2000

DISMISSED:

12.11.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE DOCUMENT DT.9.3.2000.

P2: TRUE COPY OF THE GIFT DT.11.9.79.

P3: TRUE COPY OF REPRESENTATION DT.6.3.2000 OF THE PETITIONER.

P4: TRUE COPY OF THE ORDER IN CMP NO.6799/92 IN EFA NO.28/92 DT.2.9.92.

TRUE COPY

PA TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.9019 of 2000

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Dated this the 12th day of November, 2007.

JUDGMENT

The petitioner is challenging recovery proceedings initiated for recovery of compensation awarded against petitioner's father who is 4th respondent in the O.P. According to the petitioner, the property was partly gifted in favour of the petitioner by 4th respondent and since 4th respondent is not the sole owner of the property, it cannot be sold for recovery ofarrears due from 4th respondent. I do not think there is any need for this court to enter any finding on this issue because if petitioner has right in the property, petitioner can file a claim petition under Section 46 of the Revenue Recovery Act before the second respondent. If petitioner has any right over the property, the second respondent shall sell defaulter's undivided share or get the property partitioned and sell only the portion belonging to the 4th respondent. Since stay was granted by this court, if petitioner or the 4th respondent wants to settle liability, an opportunity can be granted for settling the liability without any interest provided the amount is paid before 31.12.2007. If petitioner or the 4th respondent does not settle liability, petitioner should file claim petition within the said time and if claim petition

is filed, second respondent should hear the petitioner and dispose of the same and sell only the extent of property belonging to the defaulter. The petitioner will produce copy of this judgment before the second respondent for compliance.

The O.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms